

***VIA OVERNIGHT & ELECTRONIC MAIL***

December 9, 2003

Ms. Luly Massarro  
Secretary  
Rhode Island Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, RI 02888

**Re: Docket No. 3556**

Dear Ms. Massaro:

Conversent Communications of Rhode Island, LLC ("Conversent") hereby files this letter in lieu of a brief in connection with Verizon's proposed Triennial Review Order Tariff Revisions. For the reasons discussed below and in Conversent's Motion to Intervene, the Commission should suspend, review and possibly reject the part of Verizon's tariff revisions pertaining to dark fiber channel termination facilities.

A dark fiber channel termination facility is the unlit facility between a CLEC switch and the CLEC's collocation arrangement in a Verizon central office. It is true that under the FCC's *Triennial Review Order*, this facility no longer meets the definition of interoffice transport. Conversent's primary concern with Verizon's tariff filing is that it proposes to discontinue the availability of such facilities without considering the time it may take to enter into alternative arrangements.

A carrier that combines unbundled dark fiber with its own electronics has three alternatives for replacing unbundled dark fiber between its switch and a Verizon central office. The first alternative is to self-provision this facility. This would likely begin with a conduit request to Verizon to determine if conduit is available through which the CLEC could install its own fiber to connect its switch to its collocation arrangement. Obviously, it would take a commercially reasonable period of time in order to migrate off the Verizon fiber and on to the self-provisioned fiber.

The second alternative is to determine if there are alternative providers of dark fiber that have a facility in the required location. Assuming there are alternative vendors, this too would require a commercially reasonable period in order to migrate off Verizon fiber and on to non-ILEC fiber.

A third option is that the CLEC could lease fiber from Verizon at “just and reasonable” rates (non-UNE) pursuant to section 271 of the Telecommunications Act. This option is theoretical at this point because Verizon does not yet offer dark fiber at just and reasonable rates, although it has stated in New York that it intends to do so. Specifically, in New York, Verizon has argued that a transition period is not required for CLECs to migrate off Verizon unbundled dark fiber channel termination facilities because it “has agreed to continue to serve CLECs through a commercial agreement at market-based prices. *See*, New York PSC Case 03-C-1442, *Verizon New York Reply Brief*, Page 27 (noting that a transition period is not required for lit transport facilities that no longer meet the definition of unbundled interoffice transport because Verizon can easily convert such unbundled transport facilities to special access, but conceding that in the case of interoffice dark fiber there is no analogous access service).

Conversent welcomes Verizon's willingness in New York to offer commercial arrangements for those dark fiber dedicated transport facilities that no longer meets the definition of an unbundled network element. Conversent believes that Verizon should and indeed must make the same offer in Rhode Island in order to comply with its section 271 obligations. Until such time as Verizon makes the terms and conditions available for such an offering, Conversent does not know how to weigh its options of i) staying on Verizon's facilities at just and reasonable and/or market-based rates, ii) self-provisioning, or iii) entering into an arrangement with a non-ILEC provider. All Conversent asks is sufficient time to be able to know what its options are, and plan, choose and implement one of these options.

For the above reasons, Conversent respectfully requests that Verizon's Proposed Tariff Revisions to Dark Fiber Channel Termination arrangements be stayed until such time as Verizon is ready, willing and able to offer Conversent just and reasonable and/or market-based rates for dark fiber or until such time as Conversent can reasonably migrate off Verizon facilities.

Thank you for your attention to this matter.

Sincerely,

Scott Sawyer  
Vice President of Regulatory Affairs  
Conversent Communications of Rhode Island, LLC

SS/cw

Enclosure(s)